

# SENATE BILL REPORT

## SB 5722

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As of January 13, 2022

**Title:** An act relating to reducing greenhouse gas emissions in buildings.

**Brief Description:** Reducing greenhouse gas emissions in buildings.

**Sponsors:** Senators Nguyen, Lias, Lovelett, Pedersen, Saldaña and Stanford; by request of Office of the Governor.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/13/22.

**Brief Summary of Bill**

- Requires the Department of Commerce (Commerce) to adopt state energy management and benchmarking requirements for specified tier 2 covered buildings by December 1, 2023.
- Requires Commerce to evaluate benchmarking data to determine energy use and greenhouse gas emissions averages by building type by July 1, 2029.
- Requires Commerce to adopt rules for performance standards for tier 2 buildings by December 31, 2030.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Ashley Trunnell (786-7278)

**Background:** Department of Commerce. The Department of Commerce (Commerce) is the state agency responsible for implementing, administering, and monitoring the state's energy use and supply. Commerce develops and implements a strategic plan for enhancing energy efficiency in and reducing greenhouse gas (GHG) emissions from homes, buildings, districts, and neighborhoods.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

State Energy Code. The State Energy Code (Code) is part of the State Building Code, which sets the minimum construction requirements for buildings in the state. The Code provides a maximum and minimum level of energy efficiency for residential buildings and the minimum level of energy efficiency for nonresidential buildings.

The State Building Code Council (Council) maintains the Code. The Council reviews, updates, and adopts model state building codes every three years. The Council must adopt codes that require buildings constructed from 2013 through 2031 to move incrementally toward a 70 percent reduction in energy use by 2031. The Code must consider regional climatic conditions. The Council may amend the Code by rule if the amendments increase energy efficiency in the affected buildings.

State Energy Performance Standard. The Legislature enacted the Clean Buildings Act in 2019, which required Commerce to establish by rule state energy performance standards (Standard) for covered commercial buildings. Covered commercial buildings include those where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

The Standard seeks to maximize reductions in GHG emissions from the building sector. The Standard includes energy use intensity targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investments in energy efficiency measures designed to meet the targets.

Commerce may impose an administrative penalty upon a building owner for failing to submit documentation demonstrating compliance with the requirements of the Standard. The penalty may not exceed \$5,000 plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to \$1 per year per gross square foot of floor area. Commerce may by rule, adjust the maximum penalty rates for inflation.

**Summary of Bill:** Energy Management and Benchmarking Requirements. By December 1, 2023, Commerce must adopt state energy management and benchmarking requirements to include tier 2 covered buildings. Adopted requirements must be consistent with the Standard for covered commercial buildings. Commerce must provide a support program to building owners including certain elements such as outreach and informational materials. Commerce must also establish an incentive program to supplement the cost to the building owner or tenant to implement the requirements.

Commerce must notify tier 2 building owners with the requirements by July 1, 2025. Tier 2 covered building owners must submit reports with their compliance plans to Commerce by July 1, 2027. Every five years thereafter, tier 2 covered building owners must submit a report to Commerce detailing their compliance with the requirements adopted by

Commerce. Reports must include energy management plans, operations and maintenance plans, and energy use analysis.

By July 1, 2029, Commerce must evaluate benchmarking data to determine energy use and greenhouse-gas emissions averages by building type. Commerce must submit a report to the Legislature and the Governor by October 1, 2029, outlining recommendations for cost-effective building performance standards for tier 2 covered buildings, the estimated costs for building owners to implement the Standards, and anticipated implementation challenges.

Penalties. Commerce is authorized to impose a maximum administrative penalty of \$0.30 per square foot of floor area if tier 2 building owners fail to submit documentation demonstrating their compliance with the requirements adopted by the department, or raise tenant rent above the rate of inflation for multifamily space that receives incentive assistance funds to comply with the requirements of this act.

Funds collected from the collection of penalties must be deposited into the low-income weatherization and structural assistance account. Expenditures made with these funds must be reinvested into the state energy performance standard program to support compliance with the Standard.

Energy Performance Standards. Commerce must adopt rules to include tier 2 covered buildings in the Standard by December 31, 2030. The rules may not take effect before the conclusion of the 2031 legislative session. In developing the Standard, Commerce can establish targets for greenhouse gas-adjusted energy use intensity to maximize reductions of greenhouse gas emissions from the buildings sector.

Definitions. Tier 1 covered buildings include buildings where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

Tier 2 covered buildings include multifamily residential, nonresidential, hotel, motel, and dormitory floor areas that are greater than 20,000 square feet and less than 50,000 square feet, excluding the parking garage area. Tier 2 covered buildings also include multifamily buildings where the floor areas are equal to or greater than 50,000 square feet.

**Appropriation:** None.

**Fiscal Note:** Requested on January 6, 2022.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Washington State will not be able meet the statutory requirements to reduce GHG emissions without this bill. Requiring the implementation of the expanded building performance standards at the state level will reduce the burden on local governments to dedicate limited resources to enact similar policies. The customer support and technical assistance provided to building owners and managers will reduce implementation challenges. Renter protections will ensure tenants are not displaced in the transition to cleaner buildings. Enacting these standards will improve indoor air quality and protect human health.

CON: Rent control measures in combination with mandatory compliance requirements will hurt building owners' ability to stay in business. More incentive funding should be included to help building owners comply with the standards. The expansion of the building performance standards under this bill should be revised to be consistent with the existing standards for current covered commercial buildings. Washington State's electric grid may experience reduced reliability due to the increased reliance on electricity.

OTHER: Commercial and multifamily buildings need to reduce GHG emissions, but rent control measures should not be included in this bill.

**Persons Testifying:** PRO: Senator Joe Nguyen, Prime Sponsor; Anna Lising, Governor's Office; Lisa Parshley, Olympia City Council; Chris Roberts, Shoreline City Council; Emily Salzberg, Department of Commerce; Martin Gibbins, League of Women Voters of Washington; Israel Lopez, Washington Legislative Youth Advisory Council; Christopher Patano, EHDD/American Institute of Architects; Rebecca Price, U.S. Green Building Council; Kerry Meade, Northwest Energy Efficiency Council; Alejandra Mejia Cunningham, Natural Resources Defense Council; Geoff Glass, Providence; Jon Grant, Low Income Housing Institute; Amy Wheelless, NW Energy Coalition; Holly Townes.

CON: Jeff Pack, Me; John Rothlin, Avista; Peter Godlewski, AWB; Brandon Houskeeper, Alliance of Western Energy Consumers; Charlie Brown, Cascade Natural Gas/Northwest Natural; Greg Hanon, NAIOP; Grant Nelson, WA PUD Assoc & WA Rural Electric Cooperative Assoc; William Shadbolt, WA Business Properties Assn; Mary Hull-Drury, Washington Realtors & WA Association of Commercial Realtors; Jan Himebaugh, Building Industry Association of Washington.

OTHER: Rod Kauffman, Building Owners and Managers Association.

**Persons Signed In To Testify But Not Testifying:** PRO: Anna Lising, Governor's Office.